

**DECISION**

*D. J. [unclear]*  
**THE COMPTROLLER GENERAL**  
**OF THE UNITED STATES**  
WASHINGTON, D. C. 20543

*8185*

FILE: B-190308

DATE: November 2, 1978

MATTER OF: Jerry C. Oosting - Backpay for Detail

**DIGEST:** Employee claiming backpay for overlong detail, may not be paid where record shows that he was never detailed to higher graded position, and classification of position he held was sustained by CSC on appeal.

This decision is in response to a request for reconsideration of our Claims Division Settlement Certificate Z-27/8225, dated August 25, 1977, which disallowed Mr. Jerry C. Oosting's claim for backpay and a retroactive promotion for the period (subject to the 6-year limitation on claims as contained in 31 U.S.C. § 71a (1976)) during which he was allegedly assigned to and was allegedly performing higher graded duties.

Mr. Oosting was an employee of the Department of Labor, Office of Workers' Compensation Programs, stationed in Norfolk, Virginia, during all times relevant to this claim. He was officially appointed to the position of Supervisory Workers' Compensation Claims Examiner, grade GS-13 on May 19, 1968, and he held that position throughout the period of his claim. By letter of September 6, 1962, from the Director of the Bureau of Employees' Compensation, Mr. Oosting was assigned and authorized to perform the duties of Acting Deputy Commissioner for the Fifth Compensation District.

By letter of June 28, 1976, Mr. Oosting submitted an "Application for Upgrading of our Present Positions." In that letter he alleged that he had been led to believe that the classification of his position would be upgraded, and that comparable positions in other districts with smaller workloads were classified one or two grades higher. This letter was treated as an appeal of the classification of Mr. Oosting's position. By letter of September 29, 1976, from the Director of Personnel Management, Department of Labor, the classification of Mr. Oosting's position at the grade GS-13 level was sustained. Mr. Oosting requested that the classification be reexamined, but it was again affirmed.

B-190308

By letter of November 15, 1976, Mr. Oosting appealed the classification of his position to the Philadelphia Regional Office of the Civil Service Commission (CSC). By letter of February 17, 1977, the classification of Mr. Oosting's position at the grade GS-13 level was again sustained. In sustaining the classification, the CSC alluded to Mr. Oosting's contention that comparable positions in other districts were higher graded, by saying that:

"All positions subject to the Classification Law contained in Title 5, U.S. Code, must be classified on the basis of their current duties, responsibilities, and qualification requirements and in conformance with position classification standards published by the Civil Service Commission. Thus, the Civil Service Commission is obliged by law to classify positions on the basis of their current duties, responsibilities, and qualification requirements and the application of standards published by the Commission. Since comparison to standards, not to other positions, is the intended and exclusive method for classifying positions, we may not consider the classification of other positions, including other positions with the organizational titles Deputy Commissioner or Assistant Deputy Commissioner, as a basis for deciding your appeal."

There is nothing in the record before us to indicate that Mr. Oosting took any further appeals from this CSC Regional Office decision.

Under 5 C.F.R. § 511.610 (1978), there is no further appeal from a CSC classification appeal, and under 5 U.S.C. § 5112(a) (1976), a CSC classification decision is binding on all concerned. We have consistently held that we do not have jurisdiction to overturn or modify a CSC classification decision. Matter of Edward Rothenberg, B-187234, December 8, 1976, and Matter of Horace M. Thorpe, B-182695, September 15, 1975. Therefore, we must accept the CSC decision that Mr. Oosting's position was properly classified at the grade GS-13 level.

Mr. Oosting apparently bases his claim on our decision in Matter of Reconsideration of Turner-Caldwell, 56 Comp. Gen. 427 (1977). Under that decision, an employee may receive a retroactive temporary promotion for overlong details to higher graded

B-190308

positions. In further defining the requirements to be satisfied here, we have held the position to which the employee allegedly has been detailed must be an established position that has already been classified at the higher grade level. Matter of Katherine Crump-Wiesner, B-190335, February 14, 1978, and Matter of Hubert J. Buteau, B-187287, May 13, 1977.

Aside from the position classification question, the only evidence submitted by Mr. Oosting of detail to a higher level position is his designation as Acting Deputy Commissioner on September 6, 1962. However, he has not shown that a position of Deputy Commissioner at a grade higher than grade GS-13 existed in the Norfolk office during the period of his claim. It is clear from the file that individuals in charge of other offices, whatever their title, were graded individually based upon an evaluation of the job to which they were assigned. Whatever the situation may have been in 1962, during the period covered by the present claim as limited by the harring act, 31 U.S.C. § 71a (1976), no evidence has been presented that a position of Deputy Commissioner in the Norfolk office existed at a grade higher than grade GS-13.

Mr. Oosting has presented no evidence of a detail or assignment to any position other than that to which he was officially appointed. The classification of that position was appealed, with the grade level being sustained. Accordingly, Mr. Oosting has presented no evidence of a detail to a higher graded position, and the disallowance of his claim by our Claims Division is sustained.

Deputy

*R. G. K. 17m*  
Comptroller General  
of the United States